Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of	)	
	)	CC Docket No. 94-1
Price Cap Performance Review for Local Exchange Carriers	)	
	)	

To: Common Carrier Bureau

COMMENTS

U S WEST Communications, Inc. ("U S WEST"), through counsel and pursuant to the Federal Communications Commission's ("Commission") Public Notice,[1] hereby files its comments on the United States Telephone Association's ("USTA") ex parte submission.[2] This submission contained USTA's proposal for price cap regulation of local exchange carriers ("LEC").

USTA's proposal is a significant step in the right direction. Many commenters in the Price Cap Review proceeding have offered "so-called" price cap options that are nothing more than modified versions of traditional rate of return regulation. These commenters have proposed no beneficial improvements to the LEC price cap plan. The most prominent feature of these proposals has been the removal or degradation of almost all price cap incentives. The USTA proposal is

[1]See Public Notice, Common Carrier Bureau Invites Public Comment of USTA Ex Parte Submission, DA 95-102, rel. Jan. 24, 1995.

[2]See ex parte letter from Mary McDermott to William F. Caton dated Jan. 23, 1995, attached thereto "A USTA Proposal for the LEC Price Cap Plan" dated Jan. 18, 1995 ("USTA proposal").

quite different in that it not only enhances incentives, but introduces a new concept to the price cap debate. If anything, this proposal represents "thinking outside of the box" to use a term that Commissioner Chong used in her recent speech to the Federal Communications Bar Association ("FCBA").[3]

The concept that USTA formally introduced in its submission is the use of a rolling average to calculate the productivity offset in the LEC price cap formula. The use of a fixed productivity offset in the LEC price cap plan has been a constant source of debate between the different parties. Is it too high? Too low? If so, how much should it be raised? Or lowered? How frequently should it be revised? The list goes on. The use of a rolling average, as USTA proposes, will allow us to sidestep much of this debate.

The productivity offset has generated much controversy in both the original price cap proceeding and in the current review. The Commission largely adopted the sharing and low-end adjustments to address concerns over the use of a single productivity factor for all price cap LECs.[4] The sharing and low-end adjustments were "backstops" to guard against errors in the productivity offset.[5] In adopting these backstops the Commission acknowledged that LEC incentives would be dampened, but believed that any such reduction in incentives would be outweighed by the assurance that the risks and rewards of future productivity gains would be

[3]See Remarks of Commissioner Rachelle Chong to the FCBA, Jan. 19, 1995.

[4]See In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd. 6786, 6801 ¶¶ 120-21 (1990).

[5]Id.

fairly shared by LECs and consumers.[6] Unfortunately, the Commission's good intentions could not prevent these adjustments -- which are essentially rate of return constraints -- from undercutting the foundations of price cap regulation. Time and again, the Commission has taken action or declined to take action on an issue (e.g., depreciation service lives) because of the possible impact on sharing under price cap regulation. Clearly, this is not what was intended when the Commission adopted price cap regulation. The intent was to eliminate distortions and disincentives inherent in rate of return regulation and to provide incentives to increase efficiency.

USTA's proposal requires price cap carriers to elect to be regulated under the current price cap plan or under a "purer" price cap plan with no rate of return adjustments (i.e., the sharing and low-end adjustments) and a variable productivity offset (i.e., calculated using a rolling average). This proposal would allow the Commission to achieve its goals without mandating that price cap LECs be subject to rate of return constraints. The beauty of the USTA proposal is that the productivity offset changes automatically but not in a volatile manner. The use of a rolling average cushions the effects of any abrupt changes in productivity on both LECs and customers. This ensures that consumers will share in LEC productivity gains without introducing the distortions of sharing and low-end adjustments.

The USTA proposal, as a whole, is a reasonable approach to price cap regulation. It balances the competing interests of the different parties without

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[6] Id.

sacrificing the public interest. The key attribute of USTA's proposal from U S WEST's perspective is that it is a step closer to pure price cap regulation and away from rate of return regulation. This is particularly important as telecommunications markets become increasingly competitive. While one can argue about the merits of any regulation in certain market segments, there should be no dispute about the inappropriateness of using rate of return regulation in any segment of the market for interstate access. Adoption of the USTA price cap proposal would be a significant step towards removing the last remnants of rate of return regulation from the LEC price cap plan.

Respectfully submitted,

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January 31, 1995

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 31st day of January, 1995, I have caused a copy of the foregoing **COMMENTS** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.

Kelseau Powe, Jr.

***Via Hand-Delivery**

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